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STATUTORY RULES OF NORTHERN IRELAND

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**2006 No. 182**

**The Carriage of Explosives Regulations (Northern Ireland) 2006**

**PART V**

**MISCELLANEOUS**

**Transitional defence**

**44.** In any proceedings for an offence consisting of a contravention of regulation 17 in relation to the packing of goods in metal—

- (a) IBCs; or
- (b) drums,

exceeding 50 litres in capacity, it shall be a defence for the person charged to prove that the IBCs or drums in question were manufactured less than 15 years prior to the date of consignment and prior to 1st July 1995.

**Defence and enforcement**

**45.** —

(1) In any proceedings for an offence for a contravention of any of the provisions of these Regulations, it shall be a defence, subject to paragraphs (2) and (3), for the person charged to prove that—

- (a) the commission of the offence was due to the act or default of another person, not being one of his employees (“the other person”); and
- (b) he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) The person charged shall not be entitled, without leave of the court, to rely on the defence referred to in paragraph (1) unless, at least seven clear days before the hearing to determine the mode of trial, he has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, the other person, as was then in his possession.

(3) Where a contravention of any of the provisions of these Regulations by any person is due to the act or default of the other person, then that other person shall be guilty of the offence, which would, but for the defence in paragraph (1), be constituted by the act or default.

**Amendments to the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991**

**46.** Schedule 5 shall have effect.

**Consequential amendments**

**47.** The statutory provisions referred to in Schedule 6 shall be amended as set out in that Schedule.

## Revocations and savings

48. –

(1) Schedule 7 shall have effect.

(2) In the Order of Secretary of State (No. 9), dated June 23, 1919, relating to compressed acetylene contained in a porous substance<sup>(1)</sup>, for the purpose of deeming acetylene not to be an explosive, conditions (1) to (4) and (11) of that Order shall be deemed to have been satisfied in respect of any cylinder which complies with Part IV of the Carriage of Dangerous Goods Regulations<sup>(2)</sup>.

(3) Order in Council No. 30<sup>(3)</sup> shall not apply to the importation or use at work of acetylene in transportable pressure equipment which complies with the provisions of Part IV of the Carriage of Dangerous Goods Regulations.

(4) Any approval certificate issued by the Secretary of State for Defence or the Secretary of State under sub-paragraph (e)(i) of Schedule 8 to the Carriage of Explosives by Rail Regulations (Northern Ireland) 2001<sup>(4)</sup> or paragraph 6(f) of Schedule 4 to the Carriage of Explosives by Road Regulations (Northern Ireland) 1997<sup>(5)</sup> in operation immediately before the coming into operation of these Regulations shall be deemed to be an approval certificate issued under regulation 33 of these Regulations.

(5) Any registration by the Secretary of State for Defence or the Secretary of State of a packaging under regulation 11 of the Packaging of Explosives for Carriage Regulations (Northern Ireland) 1993<sup>(6)</sup> in operation immediately before the coming into operation of these Regulations shall be deemed to comply with regulation 20 of these Regulations.

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(1) S.R. & O. 1919/809, amended by S.I. 1974/1885 and to which there are amendments not relevant to these Regulations

(2) S.R. 2006 No. 173

(3) S.R. & O. 1937/54, to which there are amendments not relevant to these Regulations

(4) S.R. 2001 No. 387

(5) S.R. 1997 No. 474, amended by S.R. 2001 No. 390

(6) S.R. 1993 No. 268